

NEW JERSEY REGISTER

ISSUE DATE: NOVEMBER 17, 2014

RULE PROPOSALS

**TRANSPORTATION
DIVISION OF MULTIMODAL SERVICES**

Proposed Readoption with Amendments: N.J.A.C. 16:60

Proposed Repeals: N.J.A.C. 16:60 Appendices A and B

Proposed Recodification with Amendments: N.J.A.C. 16:60-1.2 as 2.1

Click here to view Interested Persons Statement

Aeronautical Investigation and Enforcement

Authorized By: Joseph D. Bertoni, Acting Commissioner, Department of Transportation.

Authority: N.J.S.A. 6:1-29, 6:1-44, 27:1A-5, and 27:1A-6.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-199.

Submit comments by January 16, 2015, to:

Miriam Weeks
Administrative Practice Officer
New Jersey Department of Transportation
PO Box 600
Trenton, New Jersey 08625-0600
Fax: (609) 530-4638

Submit electronically at njdotRules@dot.state.nj.us.

This rule may be viewed or downloaded from the Department's website at:
<http://www.state.nj.us/transportation/about/rules/proposals.shtm>.

The agency proposal follows:

Summary

In accordance with N.J.S.A. 52:14B-5.1.c(2) and Executive Order No. 66 (1978), N.J.A.C. 16:60 is scheduled to expire April 2, 2015. The Department of Transportation (Department) has reviewed the rules and determined that they are necessary, reasonable, and proper for the purposes for which they were originally promulgated. Amendments are necessary in order to clarify Department procedures, update contact information, and reorganize the rule text. Throughout the chapter, references to the "Division of Aeronautics" have been amended to "Bureau of Aeronautics." The Department is proposing to readopt the rules with amendments, recodifications, and repeals as set forth below. Because the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

The chapter is summarized as follows:

Subchapter 1 provides the procedures for the issuance of summons and complaints and empowers specific employees of the Division of Aeronautics with the authority to function as law enforcement officers in compliance with the provisions of Title 6 of the New Jersey Statutes Annotated.

Subchapter 2 outlines the specific steps to be followed in reporting aircraft accidents and delineates the State's responsibilities for assistance in case of aircraft accidents and inspections subsequent to aircraft accidents.

N.J.A.C. 16:60-1.2 is proposed for recodification with amendments as the definitions related to the chapter are now found at N.J.A.C. 16:60-2.1. N.J.A.C. 16:60-1.3 and 1.4 are recodified as N.J.A.C. 16:60-1.2 and 1.3 and are amended to correct/update Department titles and offices. Existing N.J.A.C. 16:60-1.3(a)3 is proposed for deletion as this title is not used.

Subchapter 2 is added and contains the recodified definitions section. The definition of Bureau of Aeronautics has been added and incorporates language from the existing definition of Division of Aeronautics, which is proposed for deletion.

Recodified N.J.A.C. 16:60-3.1(a) is amended for clarity and to include contact information for the Federal Aviation Administration (FAA) Communications Center. Recodified N.J.A.C. 16:60-3.1(c) is amended for clarity, to correct the number and title of a Department form and contact information, and to delete reference to existing N.J.A.C. 16:60 Appendix A, which is proposed for repeal, and to indicate the form is only needed if deemed necessary by a designated law enforcement officer. Recodified N.J.A.C. 16:60-3.2(a) and (b) are amended for clarity and to include contact information for the FAA Communications Center. Recodified N.J.A.C. 16:60-3.2(d) is amended for clarity and to correct the number and title of a Department form and contact information, which is proposed for repeal, and to indicate the form is only needed if deemed necessary by a designated law enforcement officer. Recodified N.J.A.C. 16:60-3.5 is amended for clarity, to correct the title of a Department form and contact information, to delete reference to existing N.J.A.C. 16:60 Appendix B, which is proposed for repeal, and to include the types of information found on the witness statement form.

N.J.A.C. 16:60 Appendices A and B are proposed for repeal. The forms may be found on the Department's website.

Social Impact

The rules proposed for readoption with amendments, recodifications, and repeals will continue to allow certain employees of the Division the authority to act as law enforcement officers who may issue summonses and complaints for noncompliance with the provisions of N.J.S.A. Title 6. The rules will have a positive social impact by continuing the program of focused and prioritized State response to aircraft accidents, incidents, and forced landings that may occur in New Jersey. Prompt and appropriate handling of an aircraft accident, incident, or forced landing by the State benefits the owner of the aviation facility, any property in the vicinity of the occurrence, and the persons involved in the occurrence.

Economic Impact

The rules proposed for readoption with amendments, recodifications, and repeals will continue to have an economic impact on the Department involving on-site investigations and the preparation and maintenance of reports and records. Also, the Department may incur direct and indirect costs for personnel, mileage, and equipment used in the inspection of aircraft. The economic impact on the regulated public consists of the cost of a telephone or cellphone call to the New Jersey State Police or the FAA Communications Center to report the aircraft accident, incident, or forced landing and the cost of transmitting the completed Aircraft Accident/Incident form or the Statement of Witness form to the Bureau. Services of a professional are not required to comply with the requirement to complete these forms.

Federal Standards Statement

A Federal standards analysis pursuant to Executive Order No. 27 (1994) and P.L. 1995, c. 65 is not required because the rules proposed for readoption with amendments, recodifications, and repeals are under the authority of State statute only and are not subject to Federal law, standards, or requirements.

Jobs Impact

The rules proposed for readoption with amendments, recodifications, and repeals will not result in the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments, recodifications, and repeals have no impact on the agriculture industry. These rules are not intended to regulate farming, crop, or animal production.

Regulatory Flexibility Analysis

Reporting and compliance requirements for aeronautical facilities under the Department's jurisdiction at which an aircraft accident or incident occurs and on aircraft operators involved in aircraft accidents, incidents, or forced landings include: telephone or cellphone calls to the New Jersey State Police or the FAA Communications Center at the time of an accident, preservation of the accident scene to the extent possible, and protection of property and the public from further harm. Additionally, the pilot or aircraft operator involved in the accident, incident, or forced landing shall complete

the New Jersey Department of Transportation Form DA-25-1, "Aircraft Accident/Incident Report Statement of Pilot."

Some of the entities that will incur these responsibilities may be small businesses, as that term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These entities may incur incidental costs related to phoning the police, protecting the scene, and providing first aid supplies to injured persons. The rules proposed for readoption with amendments, recodifications, and repeals do not require small businesses to retain the services of professionals to comply. However, in providing necessary assistance to injured persons, these entities may choose to call for the assistance of emergency medical professionals, as the circumstances may warrant or permit.

The Department has determined that the requirements imposed are the minimum necessary to ensure accurate aircraft accident investigation and to protect the health, safety, and welfare of the public. Therefore, the Department has provided no lesser or differing standards for small businesses.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments, recodifications, and repeals will have no impact on affordable housing in New Jersey. These rules describe the procedures for the issuance of summons and complaints and empower specific employees of the Bureau of Aeronautics in the Department with the authority to function as designated law enforcement officers in compliance with the provisions of Title 6 of the New Jersey Statutes Annotated. The rules outline the specific steps to be followed in reporting aircraft accidents, incidents and forced landings, and delineate the State's responsibilities for assistance in case of such events and investigations. The Department believes that it is extremely unlikely that the rules would bring about a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments, recodifications, and repeals will have no impact on smart growth. The Department believes that it is extremely unlikely that the rules would bring about a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules describe the procedures for the issuance of summons and complaints and empower specific employees of the Bureau of Aeronautics in the Department with the authority to function as designated law enforcement officers in compliance with the provisions of Title 6 of the New Jersey Statutes Annotated. The rules outline the specific steps to be followed in reporting aircraft accidents, incidents and forced landings, and delineate the State's responsibilities for assistance in case of such events and investigations.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:60.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 16:60 Appendices A and B.

Full text of the proposed amendments and recodifications follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

16:60-1.1 Purpose and [Scope] **scope**

This chapter designates certain employees of the [Division] **Bureau** of Aeronautics as law enforcement officers and sets forth the procedures and conduct of persons involved in and related to the reporting and investigation of aircraft accidents and incidents in the interest of public safety, the safety of persons operating or using aircraft, and the safety of persons and property on the ground.

(**Agency Note:** N.J.A.C. 16:60-1.2 is proposed for recodification with amendments as N.J.A.C. 16:60-2.1.)

16:60-[1.3]**1.2** Designation

(a) In addition to the personnel specifically designated as law enforcement officers by N.J.S.A. 6:1-29, the employees of the [Division] **Bureau** of Aeronautics assigned to the following positions are hereby designated as law enforcement officers:

1. Director, [Intermodal] **Multimodal** Services;
2. [Director] **Manager**, [Division] **Bureau** of Aeronautics; **and**
- [3. Chief, Bureau of Inspection and Aircraft Operations; and]
- [4.] **3.** (No change in text.)

16:60-[1.4]**1.3** Authority

(a)-(b) (No change.)

(c) The [Chief] **Manager**, Bureau of [Inspections and Aircraft Operations] **Aeronautics** is responsible for the accounting, control, and distribution of the summons and complaint forms.

(d) (No change.)

SUBCHAPTER 2. DEFINITIONS

16:60-[1.2]**2.1** Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

"Bureau of Aeronautics" means the office in the New Jersey Department of Transportation, or any subsequent or succeeding office, having responsibility for the supervision of aeronautics in New Jersey.

"Designated law enforcement officer" means the [Division] **Bureau** of Aeronautics personnel designated as a law enforcement officer pursuant to N.J.S.A. 6:1-29 and this chapter.

["Division of Aeronautics" means the office in the New Jersey Department of Transportation, or any subsequent or succeeding office, having responsibility for the supervision of aeronautics in New Jersey.]

...

SUBCHAPTER [2.] **3.** INVESTIGATION OF AIRCRAFT ACCIDENTS AND INCIDENTS

16:60-[2.1]**3.1** Aircraft accident reporting requirements

(a) The **pilot or aircraft** operator [of an aircraft] or anyone observing an aircraft accident or with knowledge that an aircraft accident has just occurred shall immediately notify the **FAA Communications Center at 718-553-3100 or the New Jersey State Police at 609-882-2000.**

(b) (No change.)

(c) [The] **When deemed necessary by a designated law enforcement officer, the** pilot or aircraft operator shall complete the New Jersey Department of Transportation Form [DA-23] **DA-25-1, "Aircraft Accident/Incident [Report] Statement of Pilot,"** [(see Appendix A, incorporated herein by reference)] for any accident involving the operation of an aircraft, which occurs in the State of New Jersey. The form is available on the Department's website at:
[<http://www.state.nj.us/transportation/commuter/aviation/forms.shtm>]
[<http://www.state.nj.us/transportation/aviation/forms.shtm>] or by mail from:

New Jersey Department of Transportation
[Division] **Bureau** of Aeronautics
P.O. Box [610] **600**
Trenton, NJ 08625

The written report shall be submitted to the [Division] **Bureau** of Aeronautics within 72 hours after the accident by fax at 609-530-5270 or by mail to:

New Jersey Department of Transportation
[Division] **Bureau** of Aeronautics
P.O. Box [610] **600**
Trenton, NJ 08625

16:60-[2.2]**3.2** Aircraft incident and forced landing reporting requirements

(a) The **pilot or aircraft** operator [of an aircraft] involved in an incident shall immediately notify the **FAA Communications Center at 718-553-3100 or the** New Jersey State Police at 609-882-2000.

(b) The **pilot or aircraft** operator [of an aircraft] involved in a forced landing shall immediately notify the **FAA Communications Center at 718-553-3100 or the** New Jersey State Police at 609-882-2000.

(c) (No change.)

(d) [The] **When deemed necessary by a designated law enforcement officer, the** pilot or aircraft operator shall complete the New Jersey Department of Transportation Form [DA-23] **DA-25-1**, "Aircraft Accident/Incident [Report] **Statement of Pilot**," [(see Appendix A)] for any incident or forced landing involving the operation of an aircraft, which occurs in the State of New Jersey. The form is available on the Department's website at:

[<http://www.state.nj.us/transportation/commuter/aviation/forms.shtm>]

[<http://www.state.nj.us/transportation/aviation/forms.shtm>] or by mail from:

New Jersey Department of Transportation
[Division] **Bureau** of Aeronautics
P.O. Box [610] **600**
Trenton, NJ 08625

The written report shall be submitted to the [Division] **Bureau** of Aeronautics within 72 hours after the incident or forced landing by fax at 609-530-5270 or by mail to:

New Jersey Department of Transportation
[Division] **Bureau** of Aeronautics
P.O. Box [610] **600**
Trenton, NJ 08625

16:60-[2.3]**3.3** (No change in text.)

16:60-[2.4]**3.4** Preservation of aircraft wreckage, mail, cargo, and records

(a)-(c) (No change.)

(d) The aircraft wreckage shall be released for the period of the investigation to the first official that appears on the scene from the New Jersey [Division] **Bureau** of Aeronautics, Federal Aviation Administration, or the National Transportation Safety Board. In the event officials from both State and Federal governments are present, the Federal representatives shall take precedence.

16:60-[2.5]**3.5** Statements of witnesses

When [determined] **deemed** necessary by a **designated** law enforcement official, New Jersey Department of Transportation Form DA-25, "**Aircraft Accident/Incident** Statement of Witness," [(see

Appendix B, incorporated herein by reference)] shall be completed by any person or persons who observed the actual aircraft accident or incident, or any events prior to or immediately following said accident or incident **and shall include the place, date, and time of the accident/incident; make, mode, and tail number of the aircraft; the witness's identification information; and a description of the accident/incident.** The form is available on the Department's website at: [http://www.state.nj.us/transportation/commuter/aviation/forms.shtm]
http://www.state.nj.us/transportation/aviation/forms.shtm or by mail from:

New Jersey Department of Transportation
[Division] **Bureau** of Aeronautics
P.O. Box [610] **600**
Trenton, NJ 08625

The witness **or witnesses** shall return the completed form to a **designated** law enforcement official at the scene or return it to the [Division] **Bureau** of Aeronautics within 72 hours after the accident or incident by fax at 609-530-5270 or by mail to:

New Jersey Department of Transportation
[Division] **Bureau** of Aeronautics
P.O. Box [610] **600**
Trenton, NJ 08625

16:60-[2.6]**3.6** Forced landings

In the event of a forced landing on other than a licensed aeronautical facility, no person shall cause a subsequent take-off of the aircraft without the express authorization of the [Division] **Bureau** of Aeronautics, which shall only be granted after a representative of the [Division] **Bureau** has adjudged the site to be safe for the type of aircraft and pilot experience involved. This permission cannot be granted by Federal or local officials.